

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
)	
Affordable Connectivity Program)	WC Docket No. 21-450
)	

COMMENTS OF USTELECOM—THE BROADBAND ASSOCIATION

Patrick R. Halley
B. Lynn Follansbee
Mike Saperstein
Diana Eisner
Morgan Reeds

USTelecom – The Broadband Association
601 New Jersey Ave. NW, Suite 600
Washington, DC 20001

December 8, 2021

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	ADEQUATE TIME IS NECESSARY TO ENSURE A SMOOTH TRANSITION FOR CONSUMERS AND SERVICE PROVIDERS	4
A.	SERVICE PROVIDERS NEED A SUFFICIENT TRANSITION PERIOD TO COMPLY WITH NEW RULES.....	5
B.	ELIGIBILITY QUALIFICATIONS NEED TO BE UPDATED AND CUSTOMER NOTIFICATION OF THE TRANSITION ADDRESSED.....	8
C.	PROVIDERS SHOULD BE GIVEN FLEXIBILITY TO PROMOTE THE ACP AND COMPLAINT CENTER.....	9
D.	PLAN FOR THE SUNSET OF THE ACP.....	10
III.	LEVERAGE THE EXISTING EBB STRUCTURE AND RULES WHEREVER POSSIBLE.....	11
A.	MAKE USE OF EXISTING EBB ELECTIONS TO STREAMLINE THE PROCESS FOR CONSUMERS AND PROVIDERS	12
B.	APPLY COMMONSENSE RULES TO DE-ENROLLMENT AND APPLICATION OF THE CREDIT ON CUSTOMER BILLS.....	15
C.	GIVE THE NEW NON-PAYMENT PROVISION MEANING AND ALLOW THE USE OF CREDIT CHECKS FOR NON-APPLICATION RELATED PURPOSES	16
D.	KEEP EXISTING STRUCTURE FOR DISCLOSURES BUT ADOPT MODIFICATIONS TO PREVENT INAPPROPRIATE PROVIDER SWITCHING WITHOUT CUSTOMER CONSENT	19
E.	KEEP THE EXISTING USAGE RULES ONLY FOR WIRELESS PROVIDERS	19
F.	PROVIDE CLARITY REGARDING THE ORDER IN WHICH ACP, FEDERAL LIFELINE BENEFITS AND STATE LIFELINE/LOW INCOME BENEFITS MUST BE APPLIED.....	21
G.	ENFORCEMENT	22
H.	AUDITS AND PROGRAM INTEGRITY REVIEWS SHOULD BE FUNDED BY THE ACP BUDGET.....	22
IV.	RELY ON THE BROADBAND MARKETPLACE	23
A.	THE ACP SHOULD ONLY BE AVAILABLE FOR SERVICES CURRENTLY BEING OFFERED, NOT GRANDFATHERED PLANS NO LONGER BEING SOLD	23
B.	IT IS UNNECESSARY TO ADOPT MINIMUM SERVICE STANDARDS, SERVICE LIMITATIONS OR OTHER REQUIREMENTS	26
C.	BUNDLED SERVICES SHOULD CONTINUE TO BE ELIGIBLE.....	27
D.	FEEES FOR EQUIPMENT NECESSARY FOR BROADBAND SERVICE TO FUNCTION SHOULD REMAIN COVERED	27
V.	CONCLUSION.....	29

Executive Summary

USTelecom has a history of supporting the establishment of a long-term program to provide support to low-income households to ensure all Americans can afford access to high-speed broadband service. Many USTelecom members are active participants in the Lifeline and Emergency Broadband Benefit (EBB) programs and look forward to continued participation in the new Affordable Connectivity Program (ACP). USTelecom supports quick action to ensure that those consumers who have availed themselves of the EBB are able to continue to seamlessly receive support with as little disruption as possible and those households eligible for the new ACP can efficiently obtain service from participating providers. Valuable lessons learned from the EBB should serve as a roadmap for the ACP, the implementation of which should be guided by three guiding principles.

1. Allow sufficient time for a smooth transition from the EBB to the ACP

- Allow as much time as possible for providers and USAC to make necessary changes to their systems. Systems changes take a minimum of sixty days, and will potentially take longer depending on the details of the final rules (for example, if the Commission determines that grandfathered plans must be included in the ACP – which it should not – the implementation period will need to be longer).
- The ACP rules should go into effect thirty days from publication of the final ACP rules in the Federal Register or March 15, 2022, whichever is later.
- Providers should have until the effective date of the ACP rules before being required to accept any new ACP customers subject to the new rules.
- During the period between December 31, 2021 and when the new ACP rules become effective, the Commission should consider allowing current EBB participants the option to continue signing up new ACP customers to EBB-approved service plans up to a maximum discount of \$30 and subject to the ACP eligibility criteria.
- Current EBB customers should be provided notice that their discount will be reduced starting on March 1, but the Commission should not require these customers to opt-in to continue receiving their ACP discounted service. Requiring such customers to opt-out, rather than opt-in, will prevent customer confusion and avoid a potentially large number of customers unintentionally dropping out of the program.
- Providers should have the flexibility to advertise the ACP and implement new public awareness campaign requirements as the provider deems appropriate, rather than be subject to prescriptive marketing requirements.

2. Leverage the structure and existing resources of the EBB wherever possible

- Congress intentionally built upon the existing statute that created the EBB, modifying its structure based on lessons learned. The Commission should therefore only make changes to the EBB rules and structure, where necessary, to create a permanent program.

- Continue to rely on the National Verifier and National Lifeline Accountability Database to provide a centralized “one stop shop” to verify eligibility and the existing Lifeline Claims System to reimburse providers.
- Make use of the existing EBB election process to streamline the ACP process for consumers and providers. Complex new elections should not be required for existing EBB providers.
- The rule requiring a participating provider to enroll a customer even if they are in arrearages should not apply if a subscriber is terminated after ninety days for non-payment.
- The existing structure for disclosures should be maintained but modifications should be made to prevent inappropriate provider switching without customer consent.
- Usage requirements are unnecessary for wireline providers. Any usage requirements kept in place should apply only to wireless providers.
- Declare that with respect to the ACP, the federal Lifeline discount is applied first, the state low-income program is applied second, and the ACP discount is applied third.
- Outside of USAC’s existing authority over providers and their agents’ interactions with the Representative Accountability Database, all other enforcement matters are appropriately addressed through an enforcement process run by the Commission.
- All audit expenses should be included as a part of the ACP administrative budget.

3. *Allow the marketplace to work for low-income consumers just as it does for all consumers*

- Unlike the EBB, an ACP provider must make the ACP discount available to all current internet service offerings. Accordingly, it is no longer necessary for providers to submit the details of each of their plans to the Commission and USAC for approval.
- Providers should only be required to apply the ACP to plans that are presently offered and new plans that may be offered in the future to potential or existing customers. “Any internet service offering” does not include grandfathered plans.
- Because all current plans will be available with the same terms as the services offered to any consumer, there is no reason for the Commission to mandate any minimum performance standards, or to impose any limitations or other requirements to ensure consumers receive a competitive service offering.
- Since Congress clearly intended for low-income households to have access to the same services on the same terms as those households not eligible for the ACP, the Commission should ensure that its rules allow ACP households to benefit from access to bundled services and to cover the costs of equipment necessary for the service to function.

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
)	
Affordable Connectivity Program)	WC Docket No. 21-450
)	

COMMENTS OF USTELECOM—THE BROADBAND ASSOCIATION

I. INTRODUCTION

USTelecom—The Broadband Association¹ (USTelecom) respectfully submits these comments in response to the Federal Communications Commission’s (Commission) Public Notice seeking comment on the Affordable Connectivity Program (Public Notice).² As part of the recently signed bipartisan Infrastructure Investment and Jobs Act (Infrastructure Act or IIJA),³ Congress has entrusted the Commission with the important task of expanding on the foundation of the Emergency Broadband Benefit Program (EBB) and transitioning to a more permanent Affordable Connectivity Program (ACP). A successful ACP is critical to ensuring that every American is able to take advantage of the benefits of broadband, an essential element for success in today’s Internet-dependent world.

¹ USTelecom is the premier trade association representing service providers and suppliers for the communications industry. USTelecom members provide a full array of services, including broadband, voice, data, and video over wireline and wireless networks. Its diverse membership ranges from international publicly traded corporations to local and regional companies and cooperatives, serving consumers and businesses in every corner of the country.

² *Wireline Competition Bureau Seeks Comment on the Implementation of the Affordable Connectivity Program*, Public Notice, DA 21-1453 (WCB Nov. 18, 2021) (Public Notice).

³ Infrastructure Investment and Jobs Act, H.R. 3684, 117th Cong. (2021), <https://www.govinfo.gov/content/pkg/BILLS-117hr3684enr/pdf/BILLS-117hr3684enr.pdf> (Infrastructure Act).

Even as prices for broadband service continue to steadily decline while speeds rise,⁴ the price of a high-speed connection remains out of reach for millions of Americans. Absent a direct broadband subsidy, these homes will not be able to afford a connection that students depend on to do their homework, to look for new employment opportunities, to access government benefits, to connect to a far-away physician via a telemedicine visit, to connect to loved ones, and participate in the online marketplace. For these reasons, USTelecom has long supported the establishment of a long-term program to provide support to low-income households to ensure all Americans can afford access to high-speed broadband service.⁵ In addition, many USTelecom members are active participants in the Lifeline and EBB programs and look forward to continued participation in the new ACP.

USTelecom supports quick action to ensure that those consumers who have availed themselves of the EBB are able to continue to seamlessly receive support with as little disruption as possible and those households eligible for the new ACP can efficiently obtain service from participating providers. Valuable lessons learned from the EBB should serve as a roadmap for the ACP. Based on our members' experience in the EBB and the modifications made by Congress, USTelecom offers three guiding principles that will facilitate implementation of the ACP in a manner that works best for consumers and providers.

⁴ See Arthur Menko, *2020 Broadband Pricing Index Report*, <https://www.ustelecom.org/wp-content/uploads/2020/09/USTelecom-2020-Broadband-Pricing-Index.pdf>; Arthur Menko, *2021 Broadband Pricing Index Report*, <https://ustelecom.org/wp-content/uploads/2021/05/2021-Broadband-Pricing-Index-Report.pdf> (finding that the *most popular tier* of broadband service in 2015 is now priced 26% lower and offers 126% faster speeds in 2021 than in 2015, that the *highest speed offerings* in 2015 are now priced 39% lower and offer 77% faster speeds in 2021 than in 2015, and that for entry level offerings there was a price drop of 23% from 2015-2021 and 9% in the past year alone).

⁵ See *First 100 Days: Building Our Connected Future*, An Open Letter to President Biden and the 117th Congress, USTelecom – The Broadband Association, https://www.ustelecom.org/wp-content/uploads/2020/11/USTelecom_First-100-Days.pdf (calling on the Administration and Congress to “launch and fast-track a major initiative that makes public resources available to ensure low-income students and all at-risk Americans have access to broadband at home.”).

First, allow sufficient time for a smooth transition from the EBB to the ACP. To facilitate a seamless transition from the EBB to the ACP and ensure maximum provider participation, the Commission should allow as much time as possible for providers and the Universal Service Administrative Company (USAC) to make necessary changes to their systems. The ACP builds on the EBB which will help ensure a smooth ACP implementation, but until the Commission adopts new rules through this proceeding, providers will not be able to make technical changes to their systems, modify consumer bills, notify consumers of program changes, and implement new outreach and advertising requirements, among other things. These things will take time and it will be better for the program, consumers and providers if it is not unnecessarily rushed. USTelecom appreciates that the Commission is subject to challenging statutory deadlines, but short-term enrollment pauses and waivers of ACP rules should be granted, along with other procedural measures as necessary, to ensure a smooth ACP implementation. Beyond existing EBB customers, enrollment of new ACP consumers after December 31, 2021 but before new rules are effective and after a reasonable implementation period should be voluntary. Current EBB participants should not be required to sign up new ACP customers before they have been able to review the new ACP rules and have a sufficient period of time to implement required system and operational changes. Having said that, during the period between December 31, 2021 and when the new ACP rules become effective, the Commission should consider allowing current EBB participants to continue signing up, on a voluntary basis, new ACP customers to EBB-approved service plans up to a maximum discount of \$30 and subject to the ACP eligibility criteria.

Second, leverage the structure and existing resources of the EBB wherever possible. Congress intentionally built upon the existing statute that created the EBB, modifying its

structure based on lessons learned. The Commission should therefore only make changes to the EBB rules and structure, where necessary, to create a permanent program.

Third, allow the marketplace to work for low-income consumers just as it does for all consumers. Congress made a significant change to the program by requiring participating providers to make the ACP discount available for all of their current offerings, rather than allowing participating companies to select the eligible offerings. As a result, it is no longer necessary for providers to submit all of the details of every eligible plan as currently required and any consideration of minimum performance standards or other service quality metrics is unnecessary.

II. ADEQUATE TIME IS NECESSARY TO ENSURE A SMOOTH TRANSITION FOR CONSUMERS AND SERVICE PROVIDERS

The Infrastructure Act dictates that the ACP will begin when the EBB program runs out of money and the Commission certifies to that fact, or December 31, 2021, whichever is earlier.⁶ The Public Notice indicates that the EBB will not run out of money prior to December 31, 2021, so the ACP will begin on that date.⁷ When the language establishing the ACP was drafted with this provision, it was anticipated that the Infrastructure Act would be voted on and signed into law many months prior to the end of the year. Indeed, the Infrastructure Act was passed by the Senate on August 10, 2021, and it was expected to pass shortly thereafter in the House. Instead, the Infrastructure Act was signed into law on November 15, 2021, which creates a scenario where the EBB program will end and the ACP will technically begin, per the statute, on a date

⁶ Infrastructure Act, div. F, tit. V, § 60502(a)(2).

⁷ Public Notice at para 3.

before the FCC has announced the rules for the program. This very compressed timeframe creates serious obstacles to a smooth transition.

However, as discussed below, the FCC does not face a Hobbesian choice between complying with statutory deadlines and ensuring a workable transition. Recognizing these challenges, the Commission should take whatever measures are necessary to ensure as smooth of a transition as possible for consumers and service providers. Brief pauses in EBB/ACP enrollment or short-term waivers may be necessary given that it will be impossible for providers to be immediately in compliance with not-yet adopted ACP rules. While the Commission should consider permitting providers to sign up new ACP consumers utilizing already-approved EBB plans subject to a maximum \$30 discount on December 31, 2021, this should be voluntary. Providers should not be required to sign up new ACP customers before they have had an opportunity to review the new ACP rules and have sufficient time to implement complex system changes necessary to comply with new requirements.⁸

A. Service Providers Need A Sufficient Transition Period To Comply with New Rules

Although there are many aspects of the program that replicate the EBB, there will be numerous new rules and potentially multiple changes to the existing EBB rules. Complicating the transition is the fact that there is an existing EBB program with existing customers that will continue to receive a \$50 benefit through the end of February, but will then have their discount reduced by as much as \$20 starting on March 1. Assuming that the new rules will be adopted sometime between December 28, 2021 (when the reply comment round closes), and Jan. 14, 2022 (60 days after enactment of the Infrastructure Act), there is a period in which the ACP will

⁸ USTelecom appreciates the Wireline Competition Bureau's interim level guidance on this topic issued today which is consistent with this recommendation. *See Emergency Broadband Benefit Program, et al.* Order, WC Docket Nos. 20-445, 21-450, DA 21-1524 (Dec. 8, 2021).

replace EBB per the requirements of the statute, but the Commission will not have announced the rules for the new program. It is impossible for providers to begin enrolling new ACP customers on December 31, 2021 and comply with new rules that do not yet exist. Similarly, before providers can begin enrolling new ACP customers, USAC must update its systems to update categories of eligibility applicable to the ACP, and it is unknown at this time when USAC will be able to do so.

Once the Commission adopts an Order, the new rules will presumably go into effect after publication in the Federal Register, but service providers will need sufficient time after the final rules are adopted to implement the new program. Providers typically need at a minimum sixty days to implement changes to existing systems and to comply with new program rules,⁹ which the Commission recognized when it provided more than sixty days between issuing final rules and launching the EBB.¹⁰ Congress also seemed to understand this when it provided for a sixty-day transition for existing EBB customers to the ACP.¹¹ A minimum sixty day implementation period therefore must be provided.¹² Providers will need to make substantial coding changes to their ordering and billing systems so that an ACP-eligible customer can order any current internet service offering, along with required disclosures, and train their customer service agents on these, and any other, enrollment requirements. Coding changes will need to be incorporated into each of a provider's current offers, which are numerous.

⁹ See Pubic Notice at para. 53.

¹⁰ See Id. at para 5 (noting final order adopted on February 25, 2021 and program launched May 12, 2021).

¹¹ See Infrastructure Act, div. F, tit. V, sec. 60502(b)(2).

¹² While a minimum of sixty days is a good estimate of what it would take for a provider to be ready to implement new program rules, the time frame will increase significantly if grandfathered plans are required to be included. See *infra* Section IV.A. The Commission may need to require waivers for providers unable to apply the ACP to all current internet service offerings despite best efforts if the implementation period is not of a sufficient length,

With this reality in mind, USTelecom offers the following suggestions.¹³ First, order that the ACP rules go into effect thirty days from publication of the final ACP rules in the Federal Register or March 15, 2022, whichever is later. Second, make clear that providers have until the effective date before beginning to accept any new ACP customers. Third, during the period between December 31, 2021 and when the new ACP rules become effective, the Commission should consider allowing current EBB participants to continue signing up new ACP customers to EBB-approved service plans up to a maximum discount of \$30 and subject to the ACP eligibility criteria. To the extent that the Commission allows providers to continue permitting ACP-eligible households to sign up for already approved EBB plans before the final ACP rules become effective, providers should be permitted, but not required to do so.

Congress recognized that transitioning from the EBB to the ACP was going to be a difficult task and that the Commission would need to take appropriate steps to ensure a smooth transition. It should do so. However, should a provider decide not to participate in ACP, the process to withdraw should be to provide sixty-days' notice to customers and the Commission. Once providers have given such notice, they should not have to continue accepting new ACP enrollees. Such notice and clear stoppage of accepting new enrollees keeps the process simple and does not cause customer confusion.

¹³ None of these transition issues are applicable to providers not already participating in the EBB. Such providers will have the luxury to review the rules once adopted and prepare their systems and other information necessary to participate when they are ready. If the Commission does not adopt rules that reflect the reality that providers need a sufficient transition period, some providers may simply elect to not participate and transition all of their EBB customers out of the EBB program in order to decide whether they wish to participate in the ACP at a later date as a new participant or to not participate.

B. Eligibility Qualifications Need to Be Updated and Customer Notification of the Transition Addressed

The alteration of eligibility requirements, including the addition of the WIC program, raises issues that the Commission must address. As the Commission is aware, service providers primarily rely on the Lifeline National Eligibility Verifier (National Verifier) to verify a consumer's eligibility and therefore do not necessarily know how a customer qualifies for a low-income program. For those who previously qualified under the substantial loss of income and COVID-19 program categories, USAC needs to notify consumers that they are no longer eligible for the discount, and likewise inform service providers which of their customers are impacted so that the ineligible customer is not automatically enrolled in ACP. This type of notification is similar to the process used in Lifeline where USAC notifies service providers that a consumer is no longer eligible. The use of the existing Lifeline process would ease the complications of the transition from one program to the other and help ensure that consumers are not surprised by a change in eligibility.

The Commission should also direct USAC to move expeditiously to make sure that consumers that qualify under WIC are included in the National Verifier database as soon as possible. USTelecom members are agnostic at this time as to what that the qualifying documentation should be, but it should be determined quickly by the Commission. Ensuring the National Verifier database is up to date is essential for the Program's integrity, and participating providers who elect to use the National Verifier for Program eligibility determinations must be able to rely solely on the National Verifier for eligibility determinations under this criterion.

The Commission should also alter the notification requirements for existing EBB customers. With the transition from EBB to ACP there is no longer a need for the notice rules as they currently exist. Instead, the Commission should permit companies to provide a single

notice to current non-tribal EBB customers letting them know that starting with their next billing cycle on or after March 1, 2022, the EBB will end and, to the extent their plan costs more than \$30,¹⁴ the discount will drop to \$30, and if they do not want to continue to receive their current service (with a reduced ACP discount), they should either opt-out or contact their provider for alternative broadband service options. The Commission should not require these customers to opt-in as this will likely result in customer confusion, potentially resulting in a large number of customers unintentionally dropping out of the program and forcing those customers to go through the eligibility verification process again.¹⁵ An EBB household that has already opted into the EBB program and allowing an opt-out notification for transitioning EBB customers reduces the chance that customers inadvertently lose support, ensures a smoother transition for existing customers and streamlines the notification process for service providers significantly.

C. Providers Should Be Given Flexibility to Promote the ACP and Complaint Center

USTelecom appreciates the need for providers to advertise the availability of the ACP and they have incentives to do so to sign up new customers absent a regulatory mandate. However, the Commission should not dictate precisely how such advertising is done. Nor should the Commission dictate any specific marketing requirements to which providers must adhere. Instead, providers should have the flexibility to advertise the ACP and implement new public awareness campaign requirements as mandated by the Infrastructure Act through general promotion as the provider deems appropriate by market. These efforts could occur in cooperation with or separate from awareness campaigns created and executed by the Commission, states, other federal agencies, public interest groups and non-profit organizations.

¹⁴ See Public Notice at para. 124.

¹⁵ See *id.* at para. 122.

Implementation and execution of the ACP in order to serve consumers should be the focus of providers as opposed to complying with a sundry of promotional mandates.

The Commission, other federal agencies, states and national and community-based non-profit organizations are better suited to promote the program in a targeted manner depending on the geography or demographics of a particular community. This does not mean that service providers cannot or will not engage in broader public awareness campaigns, but given the authority granted to the FCC to promote awareness, directly relying on providers is unnecessary.¹⁶

Similarly, providers should have flexibility in how they convey information about the Commission's complaint center.¹⁷ Providers know their customers best and know the most effective ways of conveying information. Some providers may find that putting the information in an order confirmation is best for their customers. Others may find that putting the information on an ACP-dedicated website is best. Still others may opt for a monthly bill message. However, there is no one-size fits all and the Commission should not prevent providers from customer-friendly approaches that work best for their customers.

D. Plan for the Sunset of the ACP

The ACP, as a successor to the EBB, does not have an infinite budget. Similar to the EBB program, the Commission should plan on disseminating ACP funding information to educate consumers and providers about the balance of the funds available and the estimated remaining lifespan of the Program in order to make the Program viable and successful. Congress

¹⁶ See Build Back Better Act, H.R. 5376, 117th Cong. § 31201 (as passed by House, Nov. 19, 2021) (providing \$100 million for the Commission to “conduct outreach and provide education to the public regarding the broadband and communications affordability programs of the Federal Communications Commission to raise awareness about the programs and help consumers access the programs.”).

¹⁷ See Public Notice at para. 89.

has appropriated a set amount of funding and it is unclear how long these funds, and thus the ACP, will be available to customers—it will be a function of eligibility, take rate, service offerings, and time that is impossible to predict. It would be extremely detrimental to a new broadband consumer’s experience if he or she were to sign up with an expectation that the ACP would cover all or most of their broadband costs only to find out this was not the case because the funds have been depleted.

Further, the Commission should not have an expectation that service providers will be responsible for continuing the benefits of the program without the certainty that they will be reimbursed for the service provided. To hedge that uncertainty and assist in any transitions that may be required if the Program funding runs out, the Commission or USAC should provide public updates on a regular basis calculating the amount of funds used to date, as well as forecasting funding availability. The existing EBB rules governing the determination of when funds run out can be replicated for this purpose. In this way, broadband service providers can be transparent with current and prospective customers about the status of the ACP, preparing them for a shift to the regular rates, terms and conditions should the funds be exhausted without a new Congressional appropriation.

III. LEVERAGE THE EXISTING EBB STRUCTURE AND RULES WHEREVER POSSIBLE

The Commission has learned a great deal in the last year through its implementation of the EBB and it should leverage those lessons to implement the ACP. USTelecom generally supports the Commission’s adopt rules and processes for ACP modeled on those developed for Lifeline and the EBB. The Commission should continue to rely on the National Verifier and National Lifeline Accountability Database (NLAD) to provide a centralized “one stop shop” to verify eligibility and the existing Lifeline Claims System (LCS) to reimburse providers.

USTelecom supports other aspects of the Commission’s proposals that replicate EBB,¹⁸ with the exception of those specifically referenced herein.

A. Make Use of Existing EBB Elections to Streamline the Process for Consumers and Providers

The Public Notice asks whether the Commission should require all providers to submit a new election notice for the ACP as a means of allowing a provider an opportunity to refresh their information.¹⁹ This step should not be mandatory for existing EBB participants as it would add unnecessary administrative burdens for existing participants during a period of rapid transition with many moving pieces. It would also serve no useful purpose when there is no change to data submitted during the EBB election process. A streamlined ACP election notice should be developed for the sole purpose of certifying compliance with the ACP rules. One of the primary functions served by the EBB election process – determining which of a provider’s offerings are eligible for the program and reviewing proof of the “standard rate” – is no longer necessary, obviating the need for re-election.²⁰

To the extent that a providers’ information in its EBB election form remains current, the Commission should adopt a procedure whereby a provider’s EBB election is presumed to remain in place for the ACP program unless a provider notifies the Commission by a certain date that it is either modifying or withdrawing its voluntary participation. Much of the information on the EBB election form is administrative and routine. Sections A-C and E-F consist of basic

¹⁸ USTelecom supports the Commission’s proposal to retain its longstanding definition of “Tribal Lands” for the purposes of determining areas that qualify for enhanced benefits. The current definition is well understood, addresses impediments to connectivity on Tribal lands, and permits USAC to use existing tools to identify whether an applicant resides on Tribal lands. Public Notice at para 70.

¹⁹ Public Notice at para 14.

²⁰ See Consolidated Appropriations Act, 2021, div. N, tit. IX, § 904(a)(13) (definition of standard rate), struck by Infrastructure Act, div. F, tit. V, sec. 60502(b)(1)(A)(iv).

information about the participating provider that is unlikely to have changed.²¹ To the extent this information has changed, a participating provider should have the opportunity to indicate changes on the election without having to refile forms with previously submitted information.

One of the most important roles of the EBB election was allowing participating providers to inform the Commission/USAC of which plans and services they were electing to provide in each state, and also confirming that those plans and prices existed as of December 1, 2020. Under the EBB rules, providers could pick which plans would be eligible for the benefit so long as they were offered as of December 1, 2020. Section D of the EBB election form was the vehicle for communicating the important details of the selected plans.²² Yet, the Infrastructure Act made a critical change in designing the ACP in such a way that a participating provider must make *all* currently available internet service offerings available to ACP participants, not just selected offerings.²³ It also removed the requirement that those plans were in place as of December 1, 2020.²⁴ Accordingly, much of the important information contained in Section D is no longer relevant except for information about the states in which a provider will offer service and whether that service is fixed or mobile.

The Commission should amend Section D of the Election Notice to remove the requirement that electing providers provide information on the service plans that are eligible for ACP benefits. Requiring providers to enumerate the details of the service plans that are now

²¹ USAC, Emergency Broadband Benefit Program, Service Provider Election Form, https://www.usac.org/wp-content/uploads/about/documents/ebb-program/Application_Docs/EBBP-Service-Provider-Election-Form-3_24.pdf (last visited December 8, 2021). Those section headings are as follows: Section A: Service Provider Information; Section B: Approval to participate in the Emergency Broadband Benefit Program; Section C: For Non-ETCs ONLY; Section E: For ETCs with non-ETC affiliates ONLY; Section F: API Access to USAC Systems.

²² *Id.* at Section D: Service Offerings.

²³ Infrastructure Act § 904(b)(7)(A)(i).

²⁴ Public Notice at para. 15.

eligible for the ACP benefits is onerous as most providers have numerous broadband plans. Under the plain terms of the statute, all internet service offerings (with the exception of grandfathered plans no longer being offered as discussed below) are now eligible. It would be an extreme administrative burden for providers—to the point of discouraging participation—if providers had to assemble and submit documentation and evidence of each individual plan they offer now and update that list on an ongoing basis throughout the duration of the program. It would also be unnecessarily burdensome for USAC to sift through this voluminous information for approval purposes when the necessity for such review and approval, *i.e.*, verification of the “standard rate,” no longer exists.

The better approach would be to confirm that providers offered the same existing plans generally available in the marketplace to ACP participants via the audit process, which would limit the constant submission of eligible plans for verification. In the alternative, providers could certify to conformance with the terms of the program, including that all currently generally available plans are available to ACP participants when seeking reimbursement. To the extent that the Commission revises existing Section G (Certifications and Signature) to conform with the new program rules, this would be an appropriate vehicle for provider certification. This streamlined approach, of voluntary re-elections combined with appropriate certifications, will meet the Commission’s administrative needs without overburdening participating providers while they navigate the transition from EBB to ACP.

Similarly, with respect to what information providers should provide in connection with their election notice to support the Companies Near Me tool or other functionality,²⁵ USTelecom members suggest collecting zip codes for this purpose. Additional information is unnecessary,

²⁵ See Public Notice at para 17.

since NLAD already has information about whether the service is fixed or mobile and since all currently available plans are to be eligible for an ACP discount no additional plan information should be required.

B. Apply Commonsense Rules to De-Enrollment and Application of the Credit on Customer Bills

In regards to customer de-enrollment, USTelecom supports the proposal that Lifeline and EBB rules continue to apply and USAC should be able to process de-enrollments directly and then notify providers.²⁶ If, however, the Commission decides that providers should be the ones to process a de-enrollment request, the provider should have up to five business days to process the request and subsequently communicate that customer's de-enrollment to USAC. Indeed, the Commission's current rules already include a five-day processing time for Lifeline de-enrollments and providers are already familiar with this process.²⁷ USTelecom member experience in the Lifeline program is that customers rarely contact their provider to de-enroll; instead, de-enrollment in Lifeline usually occurs because a customer no longer meets eligibility criteria or has transferred their benefit to another provider. Therefore, creating any other self-service de-enrollment process is unnecessary and would only serve to create additional systems requirements for providers, further delaying and complicating implementation of the Program.

Additionally, the Commission asks how quickly providers should be required to apply the ACP discount to customers after enrolling the customer.²⁸ USTelecom agrees that providers should apply the discount promptly, but it is reasonable to acknowledge that it might take a billing cycle for the credit to appear. In other words, a bill might be about to print, or may have

²⁶ Public Notice at para 44.

²⁷ See 47 C.F.R. §54.405(e).

²⁸ Public Notice at para 84.

already just printed, when the customer is enrolled. In these instances, the provider should be permitted to put the discount on the next bill.

C. Give the New Non-Payment Provision Meaning and Allow the Use of Credit Checks for Non-Application Related Purposes

While the Infrastructure Act leaves intact a rule that participating providers cannot decline to enroll an ACP household based upon arrearages, it does make an important change that will allow participating providers to terminate a subscriber's broadband service access after 90 days of non-payment.²⁹ The Public Notice seeks comment on how to square these separate requirements,³⁰ which are not in conflict when carefully examined. The original rule concerning arrearages was adopted at the beginning of a national pandemic when the emphasis for policymakers and providers was on making sure that every household, regardless of their past or present ability to pay their bill, had access to broadband. The desire to get people connected and to keep them connected trumped all other considerations – including whether or not a customer had previously paid their bill.

Consistent with the desire to ensure every household has an opportunity to get connected, Congress left intact the EBB rule that participating providers cannot decline to enroll an ACP household based upon arrearages even if their existing account is in arrears³¹ and added a new requirement that providers may not conduct a credit check on potential ACP customers.³² Importantly, it also adopted a new requirement that allows providers to terminate ACP customers for non-payment after they have been enrolled in the program and benefitting from the

²⁹ Infrastructure Act § 904(b)(7)(B).

³⁰ Public Notice at para. 83.

³¹ Consolidated Appropriations Act, § 904(a)(6).

³² Infrastructure Act § 904(b)(6)(a)(ii).

substantial discount afforded by the ACP. This is a logical requirement. There will be no barriers to entry based on a customer's past inability to pay, but once enrolled there is an assumption that the customer will be able to afford to pay for the service selected, and if they fail to do so for three consecutive months even with the significant ACP-provided discount, then their service may be disconnected.

Therefore, the Commission should make clear that the rule requiring a participating provider to enroll a customer based on arrearages does not apply where the subscriber is terminated after ninety days of non-payment and has not brought their account current. Absent doing so, these separate provisions could be read to require a service provider who terminates service for non-payment to re-enroll an ACP customer whose account is still in arrears. Surely, this is not what was intended. Moreover, in order to incent provider participation and avoid abuse of the system, a subscriber terminated for non-payment should not be allowed to re-enroll in the program with *any* provider until the applicant becomes current on their outstanding debt obligations.

Member experience suggests that unfortunately not all EBB participants have paid their bills to the extent they exceeded the available benefit. Depending on the pricing of the package selected and the duration of the subscription, this can leave the provider with a sizable uncollectable debt, which in turn may dissuade providers from continued participation. Absent the enforcement of the non-payment provision, consumers that become in arrears are likely to simply switch to receive the benefit from a competing provider, which may compound the total amount of the arrearages if a similar situation plays out with the new provider. The potential for this scenario is exacerbated by the fact that providers are unable to use a credit check to

determine a similar past history.³³ While the entire purpose of the EBB and ACP is to ensure that broadband is affordable and therefore accessible to everyone, it is not in the public interest to allow ACP subscribers to game the system by simply switching providers after extended non-payment, leaving the participating provider with little recourse.

To prevent a cycle of abuse, providers should not be required to enroll a subscriber that has been terminated for non-payment under the Program rules until all outstanding debt obligations are cleared. To accomplish this, participating providers can provide a notification to USAC that the subscriber has been terminated for non-payment, which creates a flag in the system. While the subscriber's account is flagged, the provider will not be required to enroll or re-enroll the subscriber in the ACP program. Only once the subscriber debts are paid should enrollment once again be possible.

It is also important to note that while the statute says that a provider may not require an eligible household to submit to a credit check in order to apply,³⁴ it does not prohibit the use of credit checks for other beneficial purposes. For example, a credit check can and should be permitted to abide by all Federal Trade Commission red flag laws that are intended to prevent identity theft. Allowing credit checks to be used in this and other beneficial ways unrelated to the application process is an important tool for providers to be able to do their due diligence as well as prevent waste fraud and abuse in the ACP.

³³ Infrastructure Act § 904(b)(7)(A)(ii).

³⁴ Public Notice at para. 81 (citing Infrastructure Act, div. F, tit. V, sec. 60502(a)(3)(B)(ii), § 904(b)(7)(A)(ii)).

D. Keep Existing Structure for Disclosures but Adopt Modifications to Prevent Inappropriate Provider Switching Without Customer Consent

The Commission also seeks comment on the appropriate disclosures service providers should make for the ACP.³⁵ In general, USTelecom supports disclosures similar to those used for the EBB. In implementing the EBB, some USTelecom members have discovered a new form of “slamming” that has emerged whereby households enrolled in the EBB Program are being transferred to new providers without the household’s consent or knowledge of the transfer or its effect on the household’s existing service, a practice of which the Commission is aware.³⁶ USTelecom members support the ability of a customer to move freely between providers, but experience has shown that many customers who switched providers for their Lifeline voice credit did not intend to transfer their existing EBB credits to the same provider, and a majority of those that transferred wanted to switch back to the original service provider. USTelecom suggests that the Commission adopt a disclosure-based solution to address this problem. Providing better disclosures to customers and notifying the original provider of the transfer would reduce these instances of unwanted transfers, and in turn would reduce the administrative burdens on program administrators, service providers, and consumers.

E. Keep The Existing Usage Rules Only for Wireless Providers

The Commission should not carryover the EBB usage requirements to ACP for wireline providers.³⁷ Any usage requirements kept in place should apply only to wireless providers. The EBB usage rule carried over from the Lifeline rules.³⁸ However, the Lifeline usage rules arose

³⁵ Public Notice at paras. 100-101.

³⁶ See Public Notice at para. 101.

³⁷ See Public Notice at para. 45.

³⁸ See 7 CFR § 54.1608(c) (adopting the Lifeline program definition of usage for EBB Program).

due to some mobile providers that were collecting subsidies for service that was never used, and where, critically, the provider incurred essentially no costs associated with providing that never-used service.³⁹ Those concerns do not exist in the context of wireline providers. A wireline provider provides and maintains dedicated facilities to support each customer. There is, for example, a port on a DSLAM that is dedicated to that customer's service, and a loop that is in service to the customer's home. Those facilities are dedicated to that customer, and are kept running, even in the event of service interruptions. The costs associated with doing so are hard costs independent of any amount of usage from the customer. Wireless service providers do not incur those same costs. Thus, policy concerns about waste, fraud, or abuse underpinning a usage requirement do not apply in the wireline context.⁴⁰

Should the Commission require wireline providers to confirm usage, the Commission should implement a non-rolling thirty-day cure period.⁴¹ There is no public policy benefit to forcing providers to confirm non-usage has been cured within fifteen days. On the contrary, imposing an artificially short period only increases the burden on providers and increases the likelihood that customers will be de-enrolled even though they might be able to cure in thirty days. The Commission should also make clear that if a household cures its non-usage, the provider can resubmit the claim in the LCS and receive support for the original service month that there was no usage.

³⁹ See *Lifeline and Link Up Reform and Modernization*, Order, 27 FCC Rcd. 6656, 6768-6771, paras. 257-263 (Jan. 31, 2012) (discussing concerns about non-usage for pre-paid wireless service).

⁴⁰ See Public Notice at para. 45 ("limiting reimbursement to households who are actually using a supported service is an important safeguard against waste, fraud, and abuse").

⁴¹ See Public Notice at para. 48.

F. Provide Clarity Regarding the Order in Which ACP, Federal Lifeline Benefits and State Lifeline/Low Income Benefits Must Be Applied

The EBB Order remained silent with respect to how state low-income program discounts were to be applied to customers also receiving the EBB discount, instead only noting that the federal Lifeline benefit should be applied before the EBB benefit.⁴² USTelecom agrees with the Commission that clarity is needed on this issue and agrees that the Commission should proactively declare that with respect to the ACP, the federal Lifeline discount is applied first, the state low-income program is applied second, and the ACP discount is applied third.⁴³ Currently, most states do not have rules about the order in which a federal or state lifeline discount should be applied against a consumer bill. However, a few states require that their state lifeline program should be applied as the final discount against a consumer account. As the EBB rules did not speak to this issue, USTelecom members experienced difficulties in applying different state and federal discounts to EBB customers when the EBB benefit is applied as the last credit to the customer's service or when the state low-income credit rules conflict with the federal rules. As such, the Commission should clarify this issue.⁴⁴ Ensuring that these discounts are applied consistently across the states will simplify the process for providers. Additionally, certainty regarding this point would also improve USAC's auditing processes by providing clarity about the way service providers apply these discounts and eliminate the need to consider conflicting rules on a state-by-state basis.

⁴² *Emergency Broadband Benefit Program*, Report and Order, 36 FCC Rcd 4612, 4660 (Feb. 25, 2021) (EBB Order).

⁴³ See Public Notice at para. 75.

⁴⁴ It is worth noting that for customers eligible for ACP and Lifeline, particularly in states that also offer a state Lifeline program, the interaction of the various discounts multiplied by various existing plans where the discounts may exceed the cost of the plan creates more complexity in the programming and implementation of such discounts to ensure that customers are not receiving a discount that exceeds their service charges.

G. Enforcement

With respect to enforcement and whether USAC should be permitted to remove service providers from the program or otherwise limit access to USAC systems in certain situations,⁴⁵ USTelecom does not believe USAC should be allowed to take any enforcement action independent of the Commission. Outside of USAC's existing authority over providers and their agents' interactions with the Representative Accountability Database (RAD), all other enforcement matters are appropriately addressed through an enforcement process run by the Commission and the Enforcement Bureau utilizing existing rules and procedures.

H. Audits and Program Integrity Reviews Should Be Funded by the ACP Budget

The Infrastructure Act leaves unchanged the requirement that the Commission adopt audit requirements to ensure that participating providers are in compliance with the program requirements and to prevent waste, fraud, and abuse.⁴⁶ Audits of a representative sample of participating providers must be performed within one year of the date of enactment of the statute by the Commission's Office of Inspector General. As with EBB, the Bureau proposes that the Commission delegate authority to the Office of Managing Director (OMD) to develop and implement an audit process of participating providers, for which it may obtain the assistance of third parties, including but not limited to USAC.⁴⁷ The burden of funding ACP audits should be carried out by the Commission, the Office of Managing Director and USAC. Carriers should not be required to hire a third-party vendor to conduct ACP audits. The Infrastructure Act

⁴⁵ *Id.* at para. 22.

⁴⁶ Infrastructure Act, div. F, tit. V, secs. 60502(a)(1)(B)(iii), (a)(2)(D), (a)(2)(F), § 904(b)(12).

⁴⁷ *See* EBB Order at para. 140.

appropriated a cap of \$348 million for administrative costs of the program. All audit expenses should be included as a part of the ACP overall budget.

IV. RELY ON THE BROADBAND MARKETPLACE

As discussed above, the ACP requires participating providers to make the ACP benefit available to all current broadband offerings. The effect of this change to the EBB was an intentional decision by Congress to ensure that low-income consumers are able to take advantage of all of the services currently being offered by broadband providers in the competitive broadband marketplace. And the statute makes clear that providers must offer services to ACP-eligible households “at the same terms available to households that are not eligible households.”⁴⁸ Because all current generally available plans will be available with the same terms as the services offered to any consumer, there is no reason for the Commission to mandate any minimum performance standards, or to impose any limitations or other requirements to ensure consumers receive a competitive service offering. Moreover, since Congress clearly intended for low-income households to have access to the same services on the same terms as those households not eligible for the ACP, the Commission should ensure that its rules allow ACP households to benefit from access to bundled services and to cover the costs of equipment necessary for the service to function.

A. The ACP Should Only Be Available For Services Currently Being Offered, Not Grandfathered Plans No Longer Being Sold

The Commission should explicitly clarify that providers are only required to apply the ACP to plans that are presently offered and new plans that may be offered in the future to

⁴⁸ Public Notice at 24, para. 55; IJIA div. F, tit. V, § 60502(a)(3)(B)(ii).

potential or existing customers. “Any internet service offering”⁴⁹ does not include grandfathered plans (*i.e.*, plans still available to a subset of existing subscribers but that are no longer available to new customers or existing customers rolling off a promotion that is no longer being marketed). The statute requires that providers must offer services to ACP-eligible households at the same terms available to households that are not eligible for the ACP. This implies that any new or existing customer seeking to obtain access to an ACP-supported service must be able to do so in the same manner as anyone who is not eligible for the ACP would be able to if they sought to initiate service or make a change to their service from the same provider. Logically, that only applies to plans being presently offered, not plans that an existing customer is receiving but is no longer offered to the public.

An assessment of the definition of the term “offer” supports this view. An offering is defined as “something offered” and an offer is defined as having “the opportunity to accept or take [something].”⁵⁰ A person does not have the opportunity to accept a broadband provider’s service if the particular service is no longer being made available. Grandfathered plans, by definition, are not offered to the public. They are retained only for those customers who were already subscribed to them at the time they were grandfathered. Because grandfathered plans are not available to purchase, they are not internet service *offerings* and should not be included among plans which providers are required to apply the ACP benefit.

This is further supported by the rationale for which providers choose to grandfather plans in the first place. Grandfathered services are typically plans that are obsolete or outdated, or no

⁴⁹ Infrastructure Act, div. F, tit. V, § 60502(a)(3)(B)(ii) (a participating provider “shall allow an eligible household to apply the affordable connectivity benefit to any internet service offering[.]”).

⁵⁰ *Offered*, MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/offered>.

longer competitive in the market.⁵¹ These are plans the provider no longer wishes to provide and therefore will not offer to new customers for purchase, but will permit existing customers to keep so long as they remain on the plan.⁵² Significantly, once there are no existing customers left on the plan, it will be completely discontinued.⁵³ If grandfathered plans were to be included in the offerings to which the ACP benefit must be applied, it would effectively prevent a provider from ever discontinuing an obsolete, unpopular, or noncompetitive plan. This is not a reasonable interpretation of the statute, which is intended to provide eligible households with the same connectivity options as households that are not eligible.⁵⁴ This is also bad policy as it would stifle the technology transition by preventing providers from retiring outdated technology.

Grandfathered plans are not currently offered to any households, whether eligible or not; therefore, including them among the ACP eligible plans is not supported by the language of the statute. Excluding grandfathered plans is also likely to be, in many cases, more advantageous to the customer—grandfathered plans are often lower speeds and higher prices than current offerings. Accordingly, providers should be permitted, but not required, to move an ACP-qualified customer on a grandfathered plan to a plan of that customer’s choosing in the provider’s current offering portfolio.

Similarly, participating providers should not be required to continue offering promotions that expire in the normal course of business. Promotions, such as introductory discounts, with

⁵¹ Resolution T-16864, CPUC (permitting Verizon to grandfather five of its calling plans) (“The majority of services that are targeted for grandfathering had been introduced years ago and are no longer a fit for Verizon’s nationwide strategic product *offering*.” (emphasis added)).

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Infrastructure Act, div. F, tit. V, § 60502(a)(3)(B)(ii).

expiration dates should be allowed to expire for ACP customers as they do for non-ACP customers.

B. It Is Unnecessary to Adopt Minimum Service Standards, Service Limitations or Other Requirements

As discussed above,⁵⁵ because all currently available internet service offerings are required to be eligible for the ACP, service providers should not be required to submit information about each eligible offering to the Commission/USAC for approval. Service offerings are not static and, consistent with a competitive market, many providers may modify their service offerings throughout the life of the ACP. For the same reasons, it is unnecessary for the Commission to introduce performance standards⁵⁶ or minimum service standards⁵⁷ into the ACP. The Commission elected not to require minimum service standards in the EBB and there is even more reason to not require such standards in the ACP when consumers will have access to all wireless and wireline broadband offerings available in the marketplace.⁵⁸ The Commission is understandably interested in making certain that consumers have access to quality broadband service through the ACP and asks about other approaches in addition to minimum standards that should be considered to ensure that households are receiving a competitive service offering. The answer is emphatically no. If a consumer does not feel that they are getting adequate service for the price paid, they can seek out a different plan or different provider, and through the ACP they

⁵⁵ See Section IV.A, *supra*.

⁵⁶ See Public Notice at para 118.

⁵⁷ See *id.* at para 54.

⁵⁸ *Id.*, citing EBB Order para. 73.

can do so at any time without penalty.⁵⁹ Artificial regulatory requirements will not improve the quality of service that ACP customers receive, the marketplace will.

C. Bundled Services Should Continue to be Eligible

Bundled services that include broadband and other services, including video, should also be eligible for reimbursement. Many customers choose to purchase their broadband service as part of a bundle with other services, such as voice and video. The Commission should make clear that providers may apply the benefit to the bundle price, rather than require providers to allocate the bundle price between broadband and non-broadband components as is currently permitted.⁶⁰ Such an allocation requirement would substantially increase the burdens of participation and greatly lengthen the implementation time for consumers to receive the benefit on bundled services. Instead, it should be sufficient that when they are subject to an audit, a provider can show its standalone price for the broadband speed that is part of the bundle is equal to or greater than the ACP reimbursement up to the maximum of \$30.

D. Fees for Equipment Necessary for Broadband Service to Function Should Remain Covered

Consistent with the existing EBB rule, the Commission should make it explicit that the fees for a modem, router or other comparable equipment that is required in order to receive the service remain reimbursable, if elected by the provider under the Program.⁶¹ Although the Infrastructure Act removed the reference to “associated equipment” in the definition of the benefit, there is nothing in the statute that prohibits the Commission from including as eligible

⁵⁹ Infrastructure Act, div. F, tit. V, sec. 60502(b)(1)(B), § 904(b)(6)(A)(i).

⁶⁰ See EBB Order at para. 77.

⁶¹ See Public Notice at para 59.

for support equipment that is necessary for the service to work. Moreover, it is also clear that the words “associated equipment” were only eliminated because the words were part of a longer clause that was struck in light of the fact that the new ACP would apply to all plans, not just those that were available prior to December 1, 2020, as chosen by participating service providers. Because of that change, references to “standard rate” and the definition of that term were removed from the statute. Thus, the entire clause “which shall be no more than the standard rate for an internet service offering and associated equipment,” was removed from Section (a)(7) of the EBB statute. It was not just a deletion of the words “associated equipment,” which makes clear there was no intentional decision for the ACP not to cover fees for associated equipment. This would be all the more puzzling given the statute’s inclusion of support for other equipment (*i.e.*, laptop computers) necessary to take advantage of a broadband connection.

Providers incur costs for associated equipment and must be able to recoup those costs. If they are unable to recoup the costs via monthly payments, they may be forced to charge customers upfront fees. If the provider is prohibited from including the costs for equipment on a monthly basis and from assessing upfront fees, this may disincentivize participation. In practice, USTelecom members report that many customers rent their modem and/or router and pay for that rental on a monthly basis as an integral part of the total broadband service. The Commission should explicitly provide that those rental fees are reimbursable on a technology neutral basis and set clear policies on the extent to which other equipment (e.g., network extenders, which are often necessary to extend Wi-Fi signals in some houses) are also reimbursable. As a general matter, any equipment that is necessary for the service to operate or significantly enhances the service should be covered.

V. CONCLUSION

USTelecom and its members stand ready to work with the Commission as it develops this important Program to enhance universal connectivity. We offer these comments based on our practical experience as broadband providers in a competitive marketplace and long-time participants in the Lifeline Program and, more recently, participants in the EBB. The comments and principles articulated herein are intended to assist the Commission in standing up and implementing a program that will allow providers to rapidly implement the program and start connecting more Americans as soon as possible. In addition to these comments, USTelecom and its members are ready and willing to roll up our sleeves and work with Commission staff and other stakeholders on the practical implementation issues that will inevitably arise as the program is finalized and once it is underway.

Respectfully submitted,

USTelecom–The Broadband Association

By: ____/s/____

Patrick Halley

Senior Vice President, Policy & Advocacy

B. Lynn Follansbee

Vice President, Policy & Advocacy

Mike Saperstein

Vice President, Strategic Initiatives & Partnerships

Diana Eisner

Vice President, Policy & Advocacy

Morgan Reeds

Director, Policy & Advocacy

601 New Jersey Ave. NW, Suite 600

Washington, DC 20001

December 8, 2021